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**Attorney for Plaintiffs, DAVID J. LEE and  
DANIEL R. LLOYD**

**UNITED STATES DISTRICT COURT**

# **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

DAVID J. LEE, and DANIEL R. LLOYD,  
as individuals and, on behalf of others  
similarly situated,  
  
Plaintiffs,  
  
vs.  
Case No.: C-07-4765 CRB  
PLAINTIFFS' PROPOSED [ORDER]  
RE: DEFENDANT AMERICAN EXPRESS  
BANK F.S.B.'S MOTION TO DISMISS  
PLAINTIFFS' COMPLAINT, PURSUANT  
TO FED.R.CIV.P. 12(b)(6)

**AMERICAN EXPRESS TRAVEL  
RELATED SERVICES, INC., a New York  
corporation, AMERICAN EXPRESS  
CENTURION BANK, a Utah corporation,  
AMERICAN EXPRESS BANK, FSB, a  
Utah corporation, and DOES 1, through  
100, inclusive,**

### **Defendants.**

The motion of Defendant, American Express Bank F.S.B., came on for hearing before this Court Friday, November 30, 2007. Matthew Hale, Esq. appeared on behalf of Plaintiffs David J. Lee, and Daniel R. Lloyd. Stephen J. Newman appeared on behalf of Defendant American Express Bank F.S.B.

After considering the written submissions and the arguments of counsel, and all other matters presented to the Court, IT IS HEREBY ORDERED that the Defendant's Motion is DENIED. The Court rules as follows:

1. Plaintiffs' Complaint is not preempted by the Home Owners Loan Act (HOLA),  
12 U.S.C. §§ 1462 et seq. and/or 12 C.F.R. § 560.2(b)(9);
2. The California Unfair Competition Law ("UCL"), California Bus. & Prof. Code §§ 17200 et seq., the California Consumer Legal Remedies Act ("CLRA"), California Civil Code § 1750 et seq., and common law in the context of plaintiffs' complaint have, at most, only an incidental effect on Defendants' credit operation

DATED: November \_\_\_, 2007

By: \_\_\_\_\_  
Honorable Charles R. Breyer  
U.S. District Court Judge